

**From:** [Brown, Mike](#)  
**To:** ["Kanwit, Thomas \(USAMA\)"; Oren Sellstrom; Michael Wishnie](#)  
**Cc:** [Pirozzolo, Lisa; Butts, John](#)  
**Subject:** RE: Response to Requests for Inspection.pdf  
**Date:** Tuesday, September 8, 2020 4:46:09 PM

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Thom,

Thank you for the responses to the Rule 34 Requests for Inspection. We wanted to get back to you on your offer to discuss the requests further before motion practice. We understand your position that a mutually acceptable solution is not likely. We still hope we can come to an agreement for the reasons stated below and would like to confer again given the requirement in Local Rule 37.1. We will engage on the papers if there is no room for resolution.

As we mentioned during our last discussion, an inspection is well within the bounds of the Federal Rules. We do not agree the videos and diagrams taken at the outset of the litigation are sufficient to fully litigate our claims and the current layout and state of the facility where our clients are housed is clearly relevant to our claims under the Constitution and Rehabilitation Act. While you maintain that "Detention facilities do not allow photographs to be taken of their facilities, or extensive inspections," courts do, and have recently, allowed inspections similar to the one we seek. See *Coreas v. Bounds*, No. 20-cv-00780-TDC, ECF No. 159 (D. Md. July 30, 2020); *Christian Alberto Santos Garcia v. Chad F. Wolf*, No. 20-cv-00821, ECF No. 58 (E.D. Va. Aug. 18, 2020). We recognize your concerns about COVID-19 and prison security as well as your specific objections to the particulars of our requests. As we previously offered, we are willing to come to an agreement on persons, time, spaces to be inspected, and the manner in which those accompanying the inspectors will be identified. We are willing to draft a joint stipulation on those terms in advance of the inspection.

Best,  
Mike

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**From:** Kanwit, Thomas (USAMA) <[Thomas.Kanwit@usdoj.gov](mailto:Thomas.Kanwit@usdoj.gov)>  
**Sent:** Friday, September 4, 2020 8:29 PM

**To:** Brown, Mike <Mike.Brown@wilmerhale.com>; Oren Sellstrom  
<osellstrom@lawyersforcivilrights.org>; Michael Wishnie <michael.wishnie@ylsclinics.org>  
**Subject:** Response to Requests for Inspection.pdf

**EXTERNAL SENDER**

Mike-

Here is Defendant's response to the Requests for Inspection.

Based on our prior discussion, we do not think we will be able to come to an agreement on this. I recognize that you are open to limiting the time, number of people and (maybe) the areas to be inspected. But even with that, I doubt we will find a mutually acceptable solution. It is an enormous intrusion from BCHOC's point of view with many risks and burdens attendant.

That having been said, I am happy to discuss it further. I do have a motion for a protective order drafted, but won't file it until late Tuesday in case you think we should discuss it further.

Thank you.

Thom

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